IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2116 OF 2007

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pertinent to note that notice under section 314 of the MMC Act dated 7.6.2005 at Exh.M to the Plaint is silent about the dimensions of the offending structure. more importantly, though Plaintiff has sent his second reply dated 4.5.2006 to the Legal Department of the Defendants to their notice dated 12.4.2006 under section 354-Aof the MMC Act, the Plaintiff has not amended his plaint to that effect. There is considerable substance in the submissions of Miss R.N.Karia, learned Advocate for the Defendants that the Plaintiff having removed the offending portion covered by notice under Section 314 of the MMC Act, notice under Section 314 of the MMC Act has been complied with, and the present motion ought to be dismissed with reliefs claimed therein being now "non-est". At this stage, as the cause of action in the suit itself does not survive, Mrs.S.A.Dhamale, learned Advocate for Plaintiff now does not press the Suit. "

2. In view of the statement as recorded above of the impugned Judgment and order the suit itself was not pressed by the plaintiff, the present appeal against such order itself is therefore not maintainable. The first appeal is disposed off as not maintainable with liberty.

3. No Costs.

[ANOOP V. MOHTA, J.]